

REMARKS

This is in full and timely response to the Office Action mailed on July 2, 2010.

Claims 2-3 and 16-33 are currently pending in this application, with claims 2, 16 and 25 being independent.

No new matter has been added.

Reexamination in light of the following remarks is respectfully requested.

New non-final Office Action

At least for the following reasons, if the allowance of the claims is not forthcoming at the very least and a new ground of rejection made, then a **new non-final Office Action** is respectfully requested.

Claim rejections

i. Paragraph 1 indicates a rejection of claims 1-3, 5-6, and 12-15 under 35 U.S.C. §103 as allegedly being unpatentable over International Application Publication No. WO/2003/012787 (Sako'787) (*using U.S. Patent Application Publication No. 2004/0027942 (Sako'942) for translational purposes*) in view of U.S. Patent No. 5,541,902 (Ten Kate).

A. Claims 1, 5-6, and 12-15 have been **canceled** by this amendment.

While not conceding the propriety of this rejection and in order to advance the prosecution of the present application, this Amendment includes the **cancellation** of claims 1, 5-6, and 12-15.

B. Claim 3 has been amended to depend from claim 2.

While not conceding the propriety of the rejections and in order to advance the prosecution of the present application, claim 2 has been placed into independent form by this Amendment.

Claim 2 is drawn to a recording/reproducing device comprising:

recording means for recording data on an information recording medium;

readout means for collectively reading out said data recorded on said information recording medium in units of a predetermined amount of data while the recording by said recording means is in progress; and

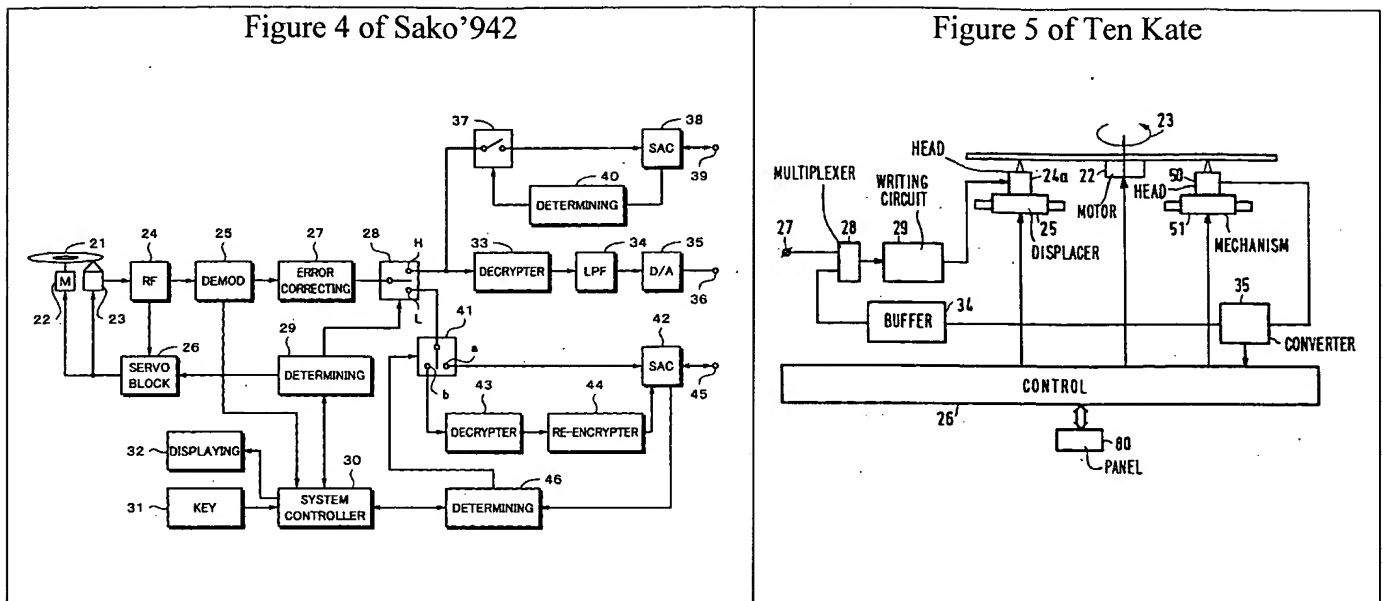
transmission means for transmitting said data read out by said readout means,

wherein:

said recording means substantially simultaneously records first data at a high bit rate and second data at a lower bit rate than that of said first data, both data corresponding to a same material, on said information recording medium; and

said readout means collectively reads out said second data recorded on said information recording medium in units of a predetermined amount of data while the recording by said recording means is in progress.

1. Combination of Sako'787 (referring to Sako'942) and Ten Kate.



a) Sako'942.

(1) The Office Action fails to show within Sako'942 the presence of recording means for recording data on an information recording medium.

Page 3 of the Office Action asserts that Sako'942 discloses recording means for recording data on an information recording medium (paragraph 0026).

In response, Sako'942 arguably discloses that data recorded on the optical disc 21A or 21B is **read** by the optical pickup 23 (Sako'942 at paragraph [0029]).

The optical disc 21A or 21B is a **ROM (Read Only Memory)** type optical disc on which high quality data and low quality data have been recorded (Sako'942 at paragraph [0028]).

However, the Office Action **fails** to show Sako'942 disclosing **any** recording means **for recording** data onto the optical disc 21A or 21B.

(2) The Office Action fails to show within Sako'942 the presence of readout means for collectively reading out said data recorded on said information recording medium in units of a predetermined amount of data while the recording by said recording means is in progress.

Sako'942 arguably discloses the following in paragraph [0028]:

Reference numeral 21 represents one of the two-layered optical disc 21A described with reference to FIG. 2 or the multi-session optical disc 21B described with reference to FIG. 3. The optical disc 21A or 21B is a **ROM (Read Only Memory)** type optical disc on which high quality data and low quality data have been recorded.

Here, the Office Action **fails** to show Sako'942 disclosing *the optical disc 21A or 21B being a Read/Write optical disc.*

In this regard, page 3 of the Office Action **readily admits** that Sako'787 **fails** to disclose *a readout means for collectively reading out data recorded on an information recording medium in units of a predetermined amount of data while the recording by the recording means is in progress.*

(3) The Office Action fails to show within Sako'942 wherein a recording means substantially simultaneously records first data at a high bit rate and second data at a lower bit rate than that of said first data, both data corresponding to a same material, on the information recording medium.

Page 4 of the Office Action contends that Sako'942 discloses:

said recording means substantially simultaneously records first data at a high bit rate and second data at a lower bit rate than that of said first data (paragraph 0028),

both data corresponding to a same material, on said information recording medium (since the two sets of data only differ by quality as given in paragraph 0027, it is the same material).

In response, the Office Action fails to show Sako'942 disclosing any recording means for recording data onto the optical disc 21A or 21B, especially when the optical disc 21A or 21B is a ROM (Read Only Memory).

(4) The Office Action fails to show within Sako'942 wherein the readout means collectively reads out second data recorded on the information recording medium in units of a predetermined amount of data while the recording by the recording means is in progress.

Page 4 of the Office Action readily admits that Sako'787 fails to disclose *wherein the readout means collectively reads out second data recorded on the information recording medium in units of a predetermined amount of data while the recording by the recording means is in progress.*

b) Ten Kate

Figure 1 pf Ten Kate shows in a diagram an embodiment for a record carrier 1 of a rewritable type, for example, an optical, magneto-optical or magnetic type (Ten Kate at column 3, lines 24-26).

Ten Kate arguably discloses that for writing the information received through input 27 a write head 24a of a customary type is used (Ten Kate at column 7, lines 4-6).

For reading the information from the servo-track 2 a read head 50 of a customary type is used (Ten Kate at column 7, lines 6-7).

(1) The Office Action fails to show within Ten Kate the presence of *readout means for collectively reading out said data recorded on said information recording medium in units of a predetermined amount of data while the recording by said recording means is in progress.*

Claim 2 includes *recording means for recording data on an information recording medium.*

Ten Kate arguably discloses that simultaneously, under the control of the control unit 26, the information stored in the memory 34 is rewritten.

However, Ten Kate fails to disclose, teach, or suggest the write head 24a collectively reading out data recorded on record carrier 1 in units of a predetermined amount of data while the recording by the read head 50 is in progress.

(2) The Office Action fails to show within Ten Kate *wherein a recording means substantially simultaneously records first data at a high bit rate and second data at a lower bit rate than that of said first data, both data corresponding to a same material, on the information recording medium.*

Ten Kate is silent as to the presence of *first data at a high bit rate and second data at a lower bit rate than that of the first data.*

(3) The Office Action fails to show within Ten Kate *wherein the readout means collectively reads out second data recorded on the information recording medium in units of a predetermined amount of data while the recording by the recording means is in progress.*

Ten Kate is silent as to the presence of *second data at a lower bit rate than that of the first data.*

ii. Paragraph 2 indicates a rejection of claims 7-9 under 35 U.S.C. §103.

While not conceding the propriety of this rejection and in order to advance the prosecution of the present application, this Amendment includes the cancellation of claims 7-9.

iii. Paragraph 3 indicates a rejection of claim 10 under 35 U.S.C. §103.

While not conceding the propriety of this rejection and in order to advance the prosecution of the present application, this Amendment includes the cancellation of claim 10.

iv. Paragraph 4 indicates a rejection of claim 11 under 35 U.S.C. §103.

While not conceding the propriety of this rejection and in order to advance the prosecution of the present application, this Amendment includes the cancellation of claim 11.

Newly added claims

v. Claims 16-33 are newly added.

Claims 17-24 are dependent upon claim 16. Claim 16 is drawn to a recording/reproducing device comprising:

a disc drive configured to record information onto an information recording medium while reading first and second data from said information recording medium, said information read from said information recording medium becoming said first and second data.

Claims 26-33 are dependent upon claim 25. Claim 25 is drawn to a recording/reproducing method comprising:

recording information onto an information recording medium while reading first and second data from said information recording medium, said information read from said information recording medium becoming said first and second data.

Either individually or as a whole, International Application Publication No. WO/2003/012787 (Sako'787), U.S. Patent No. 5,541,902 (Ten Kate), International Application Publication No. WO/2002/084666 (Nozaki), International Application Publication No. WO/2002/095749 (Sako'749), and U.S. Patent No. 5,995,704 (Shido) fail to disclose, teach, or suggest a process or product wherein *information is recorded onto an information recording medium while reading first and second data from the information recording medium, the information read from the information recording medium becoming the first and second data.*

Allowance of the claims is respectfully requested.

Official Notice

There is no concession as to the veracity of Official Notice, if taken in any Office Action.

An affidavit or document should be provided in support of any Official Notice taken. 37 C.F.R. §1.104(d)(2), M.P.E.P. §2144.03. See also, *Ex parte Natale*, 11 USPQ2d 1222, 1227-1228 (Bd. Pat. App. & Int. 1989)(failure to provide any objective evidence to support the challenged use of Official Notice constitutes clear and reversible error).

Extensions of time

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

Fees

The Commissioner is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm).

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Conclusion

This response is believed to be a complete response to the Office Action.

Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance.

Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: October 1, 2010

Respectfully submitted,

By 

Christopher M. Tobin

Registration No.: 40,290

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 23353

Attorney for Applicant